

Senate File 424

S-3145

1 Amend Senate File 424 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. Section 48A.2, subsection 4, Code 2019, is  
5 amended to read as follows:

6 4. "*Person who is incompetent to vote*" means a person with an  
7 intellectual disability who has been found to lack the mental  
8 capacity to vote in a proceeding held pursuant to section  
9 ~~633.556~~ 633.552.

10 Sec. 2. Section 229.27, subsection 3, unnumbered paragraph  
11 1, Code 2019, is amended to read as follows:

12 A hearing limited to the question of the person's competence  
13 and conducted in substantially the manner prescribed in  
14 sections 633.552, to 633.556, 633.558, and 633.560 shall be  
15 held when:

16 Sec. 3. Section 235B.18, subsections 4 and 5, Code 2019, are  
17 amended to read as follows:

18 4. If, at the hearing, the judge finds by clear and  
19 convincing evidence that the dependent adult is in need of  
20 protective services and lacks the capacity to consent to the  
21 receipt of protective services, the judge may issue an order  
22 authorizing the provision of protective services. The order  
23 may include the designation of a person to be responsible for  
24 performing or obtaining protective services on behalf of the  
25 dependent adult or otherwise consenting to the receipt of  
26 protective services on behalf of the dependent adult. Within  
27 sixty days of the appointment of such a person the court  
28 shall conduct a review to determine if a petition shall be  
29 initiated in accordance with section ~~633.552~~ 633.556 for good  
30 cause shown. The court may extend the sixty-day period for  
31 an additional sixty days, at the end of which the court shall  
32 conduct a review to determine if a petition shall be initiated  
33 in accordance with section ~~633.552~~ 633.556. A dependent adult  
34 shall not be committed to a mental health facility under this  
35 section.

1       5. A determination by the court that a dependent adult lacks  
2 the capacity to consent to the receipt of protective services  
3 under this chapter shall not affect incompetency proceedings  
4 under sections 633.552, ~~through~~ 633.556, 633.558, and 633.560  
5 or any other proceedings, and incompetency proceedings under  
6 sections 633.552, ~~through~~ 633.556, 633.558, and 633.560 shall  
7 not have a conclusive effect on the question of capacity to  
8 consent to the receipt of protective services under this  
9 chapter. A person previously adjudicated as incompetent under  
10 the relevant provisions of chapter 633 is entitled to the care,  
11 protection, and services under this chapter.

12       Sec. 4. Section 235B.19, subsection 5, paragraph a,  
13 unnumbered paragraph 1, Code 2019, is amended to read as  
14 follows:

15       Notwithstanding ~~sections 633.552~~ 633.556 and ~~633.573~~  
16 633.569, upon a finding that there is probable cause to believe  
17 that the dependent adult abuse presents an immediate danger to  
18 the health or safety of the dependent adult or is producing  
19 irreparable harm to the physical or financial resources or  
20 property of the dependent adult, and that the dependent adult  
21 lacks capacity to consent to the receipt of services, the court  
22 may order the appointment of a temporary guardian or temporary  
23 conservator without notice to the dependent adult or the  
24 dependent adult's attorney if all of the following conditions  
25 are met:

26       Sec. 5. Section 622.10, subsection 3, paragraph f, Code  
27 2019, is amended to read as follows:

28       f. The provisions of this subsection do not apply to actions  
29 or claims brought pursuant to chapter 85, 85A, or 85B, or to  
30 court orders issued pursuant to section 633.552.

31       Sec. 6. Section 633.3, Code 2019, is amended by adding the  
32 following new subsections:

33       NEW SUBSECTION. 1A. *Assistance animal* — means an animal  
34 that qualifies as a reasonable accommodation under the federal  
35 Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, or

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1 section 504 of the federal Rehabilitation Act of 1973, 29  
2 U.S.C. §794, as amended.

3 NEW SUBSECTION. 1B. *Assistive animal* — means the same as  
4 defined in section 216C.11, subsection 1.

5 NEW SUBSECTION. 27A. *Limited guardianship* — means a  
6 guardianship that grants the guardian less than all powers  
7 available under this chapter or otherwise restricts the powers  
8 of the guardian.

9 NEW SUBSECTION. 32A. *Protected person* — means a person  
10 subject to guardianship or a person subject to conservatorship,  
11 or both.

12 NEW SUBSECTION. 32B. *Respondent* — means a person who  
13 is alleged to be a person in need of a guardianship or  
14 conservatorship, or both.

15 NEW SUBSECTION. 32C. *Service animal* — means a dog or  
16 miniature horse as set forth in the implementing regulations  
17 of Title II and Title III of the federal Americans with  
18 Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

19 Sec. 7. Section 633.174, Code 2019, is amended to read as  
20 follows:

21 **633.174 Guardians and conservators — bond.**

22 1. When the guardian appointed for a person is not the  
23 conservator of the property of that person, no bond shall be  
24 required of the guardian, unless the court for good cause finds  
25 it proper to require one. If no bond is initially required,  
26 the court may, nevertheless, for good cause, at any subsequent  
27 time, require that a bond be given.

28 2. Every conservator shall execute and file with the clerk  
29 a bond with sufficient surety or sureties except as provided  
30 in section 633.175.

31 Sec. 8. Section 633.175, Code 2019, is amended to read as  
32 follows:

33 **633.175 Waiver of bond by court.**

34 1. The court, for good cause shown, may exempt any fiduciary  
35 from giving bond, if the court finds that the interests of

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1 creditors and distributees will not thereby be prejudiced.  
2 2. However, the court, except as provided in section  
3 633.172, subsection 2, shall not exempt a conservator, other  
4 than a financial institution with Iowa trust powers, from  
5 giving bond in a conservatorship ~~with total assets of more than~~  
6 ~~twenty-five thousand dollars, excluding real property, unless~~  
7 ~~it is a voluntary conservatorship in which the petitioner is~~  
8 ~~eighteen years of age or older and has waived bond in the~~  
9 petition unless the court finds that there is an alternative to  
10 a bond that will provide sufficient protection to the assets  
11 of the protected person. The conservator shall submit a plan  
12 for any proposed alternative to a bond for review and approval  
13 by the court.

14 Sec. 9. Section 633.551, Code 2019, is amended to read as  
15 follows:

16 **633.551 ~~Guardianships and conservatorships — general~~ General**  
17 **provisions.**

18 1. The determination of incompetency of the ~~proposed ward or~~  
19 ~~ward and the determination of the need for the appointment of a~~  
20 ~~guardian or conservator or of the modification or termination~~  
21 ~~of a guardianship or conservatorship~~ adult respondent to a  
22 petition for guardianship or conservatorship or an adult  
23 subject to guardianship or conservatorship shall be supported  
24 by clear and convincing evidence.

25 2. The burden of persuasion is on the petitioner in an  
26 initial proceeding to appoint a guardian or conservator.  
27 In a proceeding to modify or terminate a guardianship or  
28 conservatorship, if the guardian or conservator is the  
29 petitioner, the burden of persuasion remains with the guardian  
30 or conservator. In a proceeding to terminate a guardianship  
31 or conservatorship, if the ~~ward~~ protected person is the  
32 petitioner, the ~~ward~~ protected person shall make a prima facie  
33 showing of some decision-making capacity. Once a prima facie  
34 showing is made, the burden of persuasion is on the guardian or  
35 conservator to show by clear and convincing evidence that the

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1 ~~ward~~ protected person is incompetent.

2     3. In determining whether a guardianship or conservatorship  
3 is to be established, modified, or terminated, the  
4 district court shall consider if a limited guardianship or  
5 conservatorship pursuant to [section 633.635](#) or [633.637](#) is  
6 appropriate. In making the determination, the court shall  
7 make findings of fact to support the powers conferred on the  
8 guardian or conservator.

9     4. In proceedings to establish, modify, or terminate a  
10 guardianship or conservatorship, in determining if the ~~proposed~~  
11 ~~ward or ward~~ respondent or protected person is incompetent as  
12 defined in [section 633.3](#), the court shall consider credible  
13 ~~evidence from any source to the effect of third-party~~  
14 ~~assistance in meeting the needs of the proposed ward or ward~~  
15 as to whether there are other less restrictive alternatives,  
16 including third-party assistance, that would meet the needs of  
17 the respondent or the protected person. However, neither party  
18 to the action shall have the burden to produce such evidence  
19 relating to other less restrictive alternatives, including but  
20 not limited to third-party assistance.

21     5. Except as otherwise provided in [sections 633.672](#)  
22 and [633.673](#), in proceedings to establish a guardianship or  
23 conservatorship, the costs, including attorney fees, court  
24 visitor fees, and expert witness fees, shall be assessed  
25 against the ~~ward or the ward's~~ respondent or the respondent's  
26 estate unless the proceeding is dismissed either voluntarily  
27 or involuntarily, in which case fees and costs may be assessed  
28 against the petitioner for good cause shown.

29     6. Except as otherwise provided in this subchapter, the  
30 rules of civil procedure shall govern proceedings to establish,  
31 modify, or terminate a guardianship or conservatorship.

32     Sec. 10. NEW SECTION. **633.552 Basis for appointment of**  
33 **guardian for an adult.**

34     1. On petition and after notice and hearing, the court may  
35 appoint a guardian for an adult if the court finds by clear and

1 convincing evidence that all of the following are true:

2     a. The decision-making capacity of the respondent is  
3 so impaired that the respondent is unable to care for the  
4 respondent's safety, or to provide for necessities such as  
5 food, shelter, clothing, or medical care without which physical  
6 injury or illness may occur.

7     b. The appointment of a guardian is in the best interest of  
8 the respondent.

9     2. Section 633.551 applies to the appointment of a guardian  
10 under subsection 1.

11     3. If the court appoints a guardian based upon the mental  
12 incapacity of the protected person because the protected  
13 person has an intellectual disability, as defined in section  
14 4.1, the court shall make a separate determination as to the  
15 protected person's competency to vote. The court shall find  
16 a protected person incompetent to vote only upon determining  
17 that the person lacks sufficient mental capacity to comprehend  
18 and exercise the right to vote.

19     Sec. 11. NEW SECTION. 633.553 Basis for appointment of  
20 conservator for an adult.

21     1. On petition and after notice and hearing, the court may  
22 appoint a conservator for an adult if the court finds by clear  
23 and convincing evidence that both of the following are true:

24     a. The decision-making capacity of the respondent is so  
25 impaired that the respondent is unable to make, communicate,  
26 or carry out important decisions concerning the respondent's  
27 financial affairs.

28     b. The appointment of a conservator is in the best interest  
29 of the respondent.

30     2. Section 633.551 applies to the appointment of a  
31 conservatorship under subsection 1.

32     Sec. 12. NEW SECTION. 633.554 Basis for appointment of  
33 conservator for a minor.

34     On petition and after notice, the court may appoint a  
35 conservator for a minor if the court finds by a preponderance

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1 of the evidence that the appointment is in the best interest of  
2 the minor and any of the following is true:

3 1. The minor has funds or other property requiring  
4 management or protection that otherwise cannot be provided.

5 2. The minor has or may have financial affairs that may be  
6 put at unreasonable risk or hindered because of the minor's  
7 age.

8 3. A conservator is needed to obtain or provide funds or  
9 other property.

10 Sec. 13. NEW SECTION. 633.556 Petition for appointment of  
11 guardian or conservator for an adult.

12 1. A formal judicial proceeding to determine whether  
13 to appoint a guardian or conservator for an adult shall be  
14 initiated by the filing of a verified petition by a person with  
15 an interest in the welfare of the adult, which may include the  
16 adult who is the subject of the petition.

17 2. The petition shall contain a concise statement of the  
18 factual basis for the petition.

19 3. The petition shall contain a concise statement of why  
20 there is no less restrictive alternative to the appointment of  
21 a guardian or a conservator.

22 4. The petition shall list the name and address of the  
23 petitioner and the petitioner's relationship to the respondent.

24 5. The petition shall list the name and address, to the  
25 extent known, of the following:

26 a. The name and address of the proposed guardian and the  
27 reason the proposed guardian should be selected.

28 b. Any spouse of the respondent.

29 c. Any adult children of the respondent.

30 d. Any parents of the respondent.

31 e. Any adult, who has had the primary care of the respondent  
32 or with whom the respondent has lived for at least six months  
33 prior to the filing of the petition, or any institution or  
34 facility where the respondent has resided for at least six  
35 months prior to the filing of the petition.

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1     *f.* Any legal representative or representative payee of the  
2 respondent.

3     *g.* Any person designated as an attorney in fact in a durable  
4 power of attorney for health care which is valid under chapter  
5 144B, or any person designated as an agent in a durable power  
6 of attorney which is valid under chapter 633B.

7     6. Any additional persons who may have an interest in  
8 the proceeding may be listed in an affidavit attached to the  
9 petition.

10    7. If the petition requests the appointment of a  
11 conservator, the petition shall state the estimated present  
12 value of the real estate owned or to be owned by the  
13 respondent, the estimated value of the personal property owned  
14 or to be owned by the respondent, and the estimated gross  
15 annual income of the respondent.

16    8. The petition shall provide a brief description of  
17 the respondent's alleged functional limitations that make  
18 the respondent unable to communicate or carry out important  
19 decisions concerning the respondent's financial affairs.

20    9. Any additional information relevant to the proceeding  
21 may be included in an affidavit attached to the petition.

22    Sec. 14. NEW SECTION. 633.557 **Petition for appointment of a**  
23 **conservator for a minor.**

24    1. A formal judicial proceeding to determine whether to  
25 appoint a conservator for a minor shall be initiated by the  
26 filing of a verified petition by a person with an interest in  
27 the welfare of the minor.

28    2. The petition shall contain a concise statement of the  
29 factual basis for the petition.

30    3. The petition shall state the following to the extent  
31 known:

32     *a.* The name, age, and address of the minor.

33     *b.* The name and address of the petitioner and the  
34 petitioner's relationship to the minor.

35     *c.* The name and address of the proposed conservator and the

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1 reason the proposed conservator should be selected.

2     *d.* If the petitioner, or the proposed conservator, is not  
3 the parent or parents having legal custody of the minor, the  
4 name and address, to the extent known, of the following:

5       (1) The parent or parents having legal custody of the minor.

6       (2) Any adult who has had the primary care of the minor or  
7 with whom the minor has lived for at least six months prior  
8 to the filing of the petition, or any institution or facility  
9 where the minor has resided for at least six months prior to  
10 the filing of the petition.

11     Sec. 15. NEW SECTION. 633.558 Notice to adult respondent.

12     1. The filing of a petition filed pursuant to section  
13 633.556 shall be served upon the adult respondent in the  
14 manner of an original notice in accordance with the Iowa rules  
15 of civil procedure governing such notice. Notice to the  
16 attorney representing the respondent, if any, is notice to the  
17 respondent.

18     2. Notice shall be served upon other known persons listed in  
19 the petition in the manner prescribed by the court, which may  
20 be notice by mail in accordance with the Iowa rules of civil  
21 procedure. Failure of such persons to receive actual notice  
22 does not constitute a jurisdictional defect precluding the  
23 appointment of a guardian or conservator by the court.

24     3. Notice of the filing of a petition given to persons under  
25 subsections 2 and 3 shall include a statement that such persons  
26 may register to receive notice of the hearing on the petition  
27 and other proceedings and the manner of such registration.

28     Sec. 16. NEW SECTION. 633.559 Notice to minor respondent.

29     1. The filing of a petition pursuant to section 633.557  
30 shall be served upon a minor respondent in the manner of an  
31 original notice in accordance with the Iowa rules of civil  
32 procedure governing such notice. Notice to the attorney  
33 representing the minor, if any, is notice to the minor.

34     2. Notice shall also be served upon the known parent or  
35 parents listed in the petition in accordance with the Iowa

1 rules of civil procedure.

2 3. Notice shall be served upon other known persons listed in  
3 the petition in the manner prescribed by the court, which may  
4 be notice by mail in accordance with the Iowa rules of civil  
5 procedure. Failure of such persons to receive actual notice  
6 does not constitute a jurisdictional defect precluding the  
7 appointment of a conservator by the court.

8 4. Notice of the filing of a petition given to persons  
9 under subsections 2 and 3 shall include a statement that the  
10 recipient of the notice may register to receive notice of the  
11 hearing on the petition and other proceedings and the manner of  
12 such registration.

13 Sec. 17. NEW SECTION. 633.560 Hearing.

14 1. The court shall fix the time and place of hearing on a  
15 petition and shall prescribe a time not less than twenty days  
16 after the date the notice is served unless the court finds  
17 there is good cause shown to shorten the time period to less  
18 than twenty days pursuant to section 633.40. The court shall  
19 also prescribe the manner of service of the notice of such  
20 hearing pursuant to section 633.40.

21 2. The respondent shall be entitled to attend the hearing on  
22 the petition and all other proceedings. The court shall make  
23 reasonable accommodations to enable the respondent to attend  
24 the hearing and all other proceedings. The court may waive the  
25 respondent's attendance for good cause shown. The court shall  
26 make a record of the reason for a respondent's nonattendance.

27 3. The court shall require the proposed guardian or  
28 conservator to attend the hearing on the petition but the court  
29 may excuse the proposed guardian's attendance for good cause  
30 shown.

31 4. The court shall require the court visitor as described in  
32 section 633.562, if any, to attend the hearing but the court  
33 may excuse the court visitor's attendance for good cause shown.

34 5. Any person with an interest in the welfare of the  
35 respondent may submit a written application to the court

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1 requesting permission to participate in the hearing on the  
2 petition and other proceedings. The court may grant the  
3 request if the court finds that the person's participation is  
4 in the best interest of the respondent. The court may impose  
5 appropriate conditions on the person's participation.

6 6. A complete record of the hearing shall be made.

7 Sec. 18. Section 633.560, Code 2019, is amended to read as  
8 follows:

9 **633.560 Appointment of guardian for an adult on a standby**  
10 **basis.**

11 A petition for the appointment of a guardian for an adult  
12 on a standby basis may be filed by any person under the same  
13 procedure and requirements as provided in sections 633.591  
14 to 633.597, for appointment of standby conservator, insofar  
15 as applicable. In all proceedings to appoint a guardian,  
16 the court shall consider whether a limited guardianship, as  
17 authorized in [section 633.635](#), is appropriate.

18 Sec. 19. NEW SECTION. **633.560A Mediation.**

19 1. The district court may, on its own motion or on the  
20 motion of any party, order the parties to participate in  
21 mediation in any guardianship or conservatorship action.  
22 Mediation performed under this section shall comply with the  
23 provisions of chapter 679C. The court shall, upon application  
24 of a party, grant a waiver from any court-ordered mediation  
25 under this section if the party demonstrates that a history  
26 of domestic abuse exists similarly as considered in section  
27 598.41, subsection 3, paragraph "j". The court may, upon  
28 application of a party, grant a waiver from any court-ordered  
29 mediation if the action involves elder abuse pursuant to  
30 chapter 235F.

31 2. Mediation shall comply with all of the following  
32 standards:

33 a. The parties will participate in good faith.  
34 Participation in mediation shall include attendance at  
35 a mediation session with the mediator and the parties to

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1 the action, listening to the mediator's explanation of the  
2 mediation process, presentation of one party's view of the  
3 case, and listening to the response of the other party.  
4 Participation in mediation does not require that the parties  
5 reach an agreement.

6     *b.* Unless the parties agree upon a mediator, the court shall  
7 appoint a mediator. Any mediator appointed by the court shall  
8 meet the qualifications established in this section.

9     *c.* Parties to the mediation shall have the right to  
10 representation by an attorney at all times.

11     *d.* The parties to the mediation shall present any agreement  
12 reached through the mediation to their attorneys, if any.  
13 A mediation agreement reached by the parties shall not be  
14 enforceable until approved by the court.

15     *e.* The costs of mediation shall be borne by the parties, as  
16 agreed to by the parties, or as ordered by the court, and may  
17 be taxed as court costs.

18     3. A mediator appointed by the court acting pursuant to this  
19 section shall have the following qualifications:

20     *a.* Completed a one-hour internet seminar or live session  
21 regarding the external resources available to a respondent with  
22 particular focus on resources for older persons.

23     *b.* A minimum of twenty-five hours of general mediation  
24 training.

25     *c.* Either of the following:

26         (1) Fifteen hours of probate-specific or elder-specific  
27 mediation training.

28         (2) Ten continuous years of practice in Iowa as a licensed  
29 attorney with the greater of four hundred hours or forty  
30 percent of the total hours of law practice per year being  
31 devoted to matters concerning wills, trusts, and estate work  
32 for each of the ten continuous years.

33     Sec. 20. Section 633.561, Code 2019, is amended to read as  
34 follows:

35     **633.561 ~~Representation~~ Appointment and role of attorney for**

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1 respondent.

2 1. In a proceeding for the appointment of a guardian or  
3 conservator for an adult or a conservator for a minor:

4 a. If the ~~proposed ward~~ respondent is an adult and is  
5 not the petitioner, the ~~proposed ward~~ respondent is entitled  
6 to representation by an attorney. Upon the filing of the  
7 petition, the court shall appoint an attorney to represent the  
8 ~~proposed ward~~ respondent, set a hearing on the petition, and  
9 provide for notice of the appointment of counsel and the date  
10 for hearing.

11 b. If the ~~proposed ward~~ respondent is either a minor or  
12 an adult under a standby petition, the court shall determine  
13 whether, under the circumstances of the case, the ~~proposed ward~~  
14 respondent is entitled to representation. The determination  
15 regarding representation may be made with or without notice to  
16 the ~~proposed ward~~ respondent, as the court deems necessary.  
17 If the court determines that the ~~proposed ward~~ respondent  
18 is entitled to representation, the court shall appoint an  
19 attorney to represent the ~~proposed ward~~ respondent. After  
20 making the determination regarding representation, the court  
21 shall set a hearing on the petition, and provide for notice on  
22 the determination regarding representation and the date for  
23 hearing.

24 c. The court may take action under paragraph "a" or "b"  
25 prior to the service of the original notice upon the ~~proposed~~  
26 ward respondent.

27 d. The court may reconsider the determination regarding  
28 representation upon application by any interested person.

29 e. The court may discharge the attorney appointed by the  
30 court if it appears upon the application of the ~~proposed~~  
31 ward respondent or any other interested person that the ~~ward~~  
32 respondent has privately retained an attorney who has filed an  
33 appearance on behalf of the ~~proposed ward~~ respondent.

34 2. The court shall ensure that all ~~proposed wards~~  
35 respondents entitled to representation have been provided

1 with notice of the right to representation and right to be  
2 personally present at all proceedings and shall make findings  
3 of fact in any order of disposition setting out the manner in  
4 which notification was provided.

5 3. If the ~~proposed ward~~ respondent is entitled to  
6 representation and is indigent or incapable of requesting  
7 counsel, the court shall appoint an attorney to represent the  
8 ~~proposed ward~~ respondent. The cost of court appointed counsel  
9 for indigents shall be assessed against the county in which the  
10 proceedings are pending. For the purposes of **this subsection**,  
11 the court shall find a person is indigent if the person's  
12 income and resources do not exceed one hundred fifty percent of  
13 the federal poverty level or the person would be unable to pay  
14 such costs without prejudicing the person's financial ability  
15 to provide economic necessities for the person or the person's  
16 dependents.

17 4. An attorney appointed pursuant to **this section** shall:

18 a. Ensure that the ~~proposed ward~~ respondent has been  
19 properly advised of the nature and purpose of the proceeding.

20 b. Advocate for the wishes of the respondent to the extent  
21 those wishes are reasonably ascertainable. If the respondent's  
22 wishes are not reasonably ascertainable, the attorney shall  
23 advocate for the least restrictive alternative consistent with  
24 the respondent's best interests.

25 ~~b.~~ c. Ensure that the ~~proposed ward~~ respondent has been  
26 properly advised of the ~~ward's~~ respondent's rights in a  
27 guardianship proceeding.

28 ~~c.~~ d. Personally interview the ~~proposed ward~~ respondent.

29 ~~d.~~ e. File a written report stating whether there is a  
30 return on file showing that proper service on the ~~proposed~~  
31 ~~ward~~ respondent has been made and also stating that specific  
32 compliance with paragraphs "a" through "~~e~~" "d" has been made  
33 or stating the inability to comply by reason of the ~~proposed~~  
34 ~~ward's~~ respondent's condition.

35 ~~e.~~ Represent the ~~proposed ward~~.

1 f. Ensure that the guardianship procedures conform to the  
2 statutory and due process requirements of Iowa law.

3 5. In the event that an order of appointment is entered,  
4 the attorney appointed pursuant to [this section](#), to the extent  
5 possible, shall:

6 a. Inform the ~~proposed ward~~ respondent of the effects of the  
7 order entered for appointment of guardian.

8 b. Advise the ~~ward~~ respondent of the ~~ward's~~ respondent's  
9 rights to petition for modification or termination of the  
10 guardianship.

11 c. Advise the ~~ward~~ respondent of the rights retained by the  
12 ~~ward~~ respondent.

13 6. If the court determines that it would be in the ~~ward's~~  
14 respondent's best interest to have legal representation  
15 with respect to any proceedings in a guardianship or  
16 conservatorship, the court may appoint an attorney to represent  
17 the ~~ward~~ respondent at the expense of the ~~ward~~ respondent or  
18 the ~~ward's~~ respondent's estate, or if the ~~ward~~ respondent  
19 is indigent the cost of the court appointed attorney shall  
20 be assessed against the county in which the proceedings are  
21 pending.

22 7. If the court determines upon application that it  
23 is appropriate or necessary, the court may order that the  
24 attorney appointed pursuant to [this section](#) be given copies  
25 of and access to the ~~proposed ward's~~ respondent's health  
26 information by describing with reasonable specificity the  
27 health information to be disclosed or accessed, for the purpose  
28 of fulfilling the attorney's responsibilities pursuant to this  
29 section.

30 Sec. 21. NEW SECTION. 633.562 Appointment and role of court  
31 visitor.

32 1. If the court determines that the appointment of a court  
33 visitor would be in the best interest of the respondent, the  
34 court shall appoint a court visitor at the expense of the  
35 respondent or the respondent's estate, or, if the respondent

1 is indigent, the cost of the court visitor shall be assessed  
2 against the county in which the proceedings are pending. The  
3 court may appoint any qualified person as a court visitor in a  
4 guardianship or conservatorship proceeding.

5 2. The same person shall not serve both as the attorney  
6 representing the respondent and as court visitor.

7 3. Unless otherwise enlarged or circumscribed by the court,  
8 the duties of a court visitor with respect to the respondent  
9 shall include all of the following:

10 a. Conducting an initial in-person interview with the  
11 respondent.

12 b. Explaining to the respondent the substance of the  
13 petition, the purpose and effect of the guardianship or  
14 conservatorship proceeding, the rights of the respondent at  
15 the hearing, and the general powers and duties of a guardian  
16 or conservator.

17 c. Determining the views of the respondent regarding the  
18 proposed guardian or conservator, the proposed guardian's or  
19 conservator's powers and duties, and the scope and duration of  
20 the proposed guardianship or conservatorship.

21 4. In addition, if directed by the court, the court visitor  
22 shall:

23 a. Interview the petitioner, and if the petitioner is not  
24 the proposed guardian or conservator, interview the proposed  
25 guardian or conservator.

26 b. Visit, to the extent feasible, the residence where it  
27 is reasonably believed that the respondent will live if the  
28 appointment of a guardian or conservator is made.

29 c. Make any other investigation the court directs including  
30 but not limited to interviewing any persons providing medical,  
31 mental health, educational, social, and other services to the  
32 respondent.

33 5. The court visitor shall submit a written report to the  
34 court that shall contain all of the following:

35 a. A recommendation regarding the appropriateness of a

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1 limited guardianship for the respondent, including whether less  
2 restrictive alternatives are available.

3     *b.* A statement of the qualifications of the guardian  
4 together with a statement of whether the respondent has  
5 expressed agreement with the appointment of the proposed  
6 guardian or conservator.

7     *c.* Any other matters the court visitor deems relevant to  
8 the petition for guardianship or conservatorship and the best  
9 interests of the respondent.

10     *d.* Any other matters the court directs.

11     6. The report of the court visitor shall be made part of the  
12 court record unless otherwise ordered by the court.

13     Sec. 22. NEW SECTION. 633.563 Court-ordered professional  
14 evaluation.

15     1. At or before a hearing on petition for the appointment of  
16 a guardian or conservator or the modification or termination  
17 of a guardianship or conservatorship, the court shall order a  
18 professional evaluation of the respondent unless one of the  
19 following criteria are met:

20     *a.* The court finds it has sufficient information to  
21 determine whether the criteria for a guardianship or  
22 conservatorship are met.

23     *b.* The petitioner or respondent has filed a professional  
24 evaluation.

25     2. Notwithstanding subsection 1, if the respondent has  
26 filed a professional evaluation and the court determines an  
27 additional professional evaluation will assist the court in  
28 understanding the decision-making capacity and functional  
29 abilities and limitations of the respondent, the court may  
30 order a professional evaluation of the respondent.

31     3. If the court orders an evaluation, the evaluation shall  
32 be conducted by a licensed physician, psychologist, social  
33 worker, or other individual who is qualified to conduct an  
34 evaluation appropriate for the respondent being assessed.

35     4. Unless otherwise directed by the court, the report must

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1 contain all of the following:

2     *a.* A description of the nature, type, and extent of the  
3 respondent's cognitive and functional abilities and limitation.

4     *b.* An evaluation of the respondent's mental and physical  
5 condition and, if appropriate, educational potential, adaptive  
6 behavior, and social skills.

7     *c.* A prognosis for improvement and recommendation for the  
8 appropriate treatment, support, or habilitation plan.

9     *d.* The evaluator's qualifications to evaluate the  
10 respondent's cognitive and functional abilities limitations and  
11 lack of conflict of interest.

12     *e.* The date of examination on which the report is based.

13     5. The cost of the professional evaluation shall be paid by  
14 the respondent unless the respondent is indigent as defined in  
15 section 633.561, subsection 3, in which case the costs shall  
16 be paid by the county in which the proceedings are pending or  
17 unless the court orders otherwise.

18     6. At the request of the respondent, the court shall seal  
19 the record of the results of the evaluation ordered by the  
20 court subject to the exceptions in subsection 7.

21     7. The results of the evaluation ordered by the court shall  
22 be made available to the court and the following:

23     *a.* The respondent and the respondent's attorney.

24     *b.* The petitioner and the petitioner's attorney.

25     *c.* A court visitor as described in section 633.562.

26     *d.* Other persons for good cause shown for such purposes as  
27 the court may order.

28     Sec. 23. NEW SECTION. 633.564 Background check of proposed  
29 guardian or conservator.

30     1. The court shall request criminal record checks and  
31 checks of the child abuse, dependent adult abuse, and sexual  
32 offender registries in this state for all proposed guardians  
33 and conservators, other than financial institutions with Iowa  
34 trust powers.

35     2. The court shall review the results of background checks

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1 in determining the suitability of a proposed guardian or  
2 conservator for appointment.

3 3. The judicial branch, in conjunction with the department  
4 of public safety, the department of human services, and the  
5 state chief information officer, shall establish procedures for  
6 electronic access to the single contact repository established  
7 pursuant to section 135C.33 necessary to conduct background  
8 checks requested under subsection 1.

9 4. The person who files a petition for appointment of  
10 guardian or conservator shall be responsible for paying the fee  
11 for the background check conducted through the single contact  
12 repository established pursuant to section 135C.33.

13 Sec. 24. NEW SECTION. 633.565 **Qualifications and selection**  
14 **of guardian or conservator for an adult.**

15 The court shall appoint as guardian or conservator any  
16 qualified and suitable person who is willing to serve as  
17 guardian or conservator.

18 Sec. 25. NEW SECTION. 633.567 **Appointment of guardian or**  
19 **conservator for minor approaching majority on a standby basis.**

20 Any adult with an interest in the welfare of a minor who  
21 is at least seventeen years and six months of age may file  
22 a verified petition pursuant to section 633.552 or section  
23 633.553 to initiate a proceeding to appoint a guardian or  
24 conservator for the minor to take effect on the minor's  
25 eighteenth birthday.

26 Sec. 26. NEW SECTION. 633.569 **Emergency appointment of**  
27 **temporary guardian or conservator.**

28 1. A person authorized to file a petition under section  
29 633.552, 633.553, or 633.554 may file an application for the  
30 emergency appointment of a temporary guardian or conservator.

31 2. Such application shall state all of the following:

32 a. The name and address of the respondent.

33 b. The name and address of the proposed guardian or  
34 conservator and the reason the proposed guardian or conservator  
35 should be selected.

1     *c.* The reason the emergency appointment of a temporary  
2 guardian is sought.

3     3. The court may enter an ex parte order appointing a  
4 temporary guardian on an emergency basis under this section if  
5 the court finds that all of the following conditions are met:

6     *a.* There is not sufficient time to file a petition and hold  
7 a hearing pursuant to section 633.552, 633.553, or 633.554.

8     *b.* The appointment of a temporary guardian or conservator  
9 is necessary to avoid immediate or irreparable harm to the  
10 respondent.

11    *c.* There is reason to believe that the basis for appointment  
12 of guardian or conservator exists under section 633.552,  
13 633.553, or 633.554.

14    4. Notice of a petition for the appointment of a temporary  
15 guardian or conservator and the issuance of an ex parte  
16 order appointing a temporary guardian or conservator shall be  
17 provided to the respondent, the respondent's attorney, and any  
18 other person the court determines should receive notice.

19    5. Upon the issuance of an ex parte order, if the respondent  
20 is an adult, the respondent may file a request for a hearing.  
21 If the respondent is a minor, the respondent, a parent having  
22 legal custody of the respondent, or any other person having  
23 legal custody of the respondent may file a written request for  
24 a hearing. Such hearing shall be held no later than seven days  
25 after the filing of a written request.

26    6. The powers of the temporary guardian or conservator  
27 set forth in the order of the court shall be limited to those  
28 necessary to address the emergency situation requiring the  
29 appointment of a temporary guardian or conservator.

30    7. The temporary guardianship or conservatorship shall  
31 terminate within thirty days after the order is issued.

32    Sec. 27. NEW SECTION. 633.570 Notification of guardianship  
33 and conservatorship powers.

34    1. In a proceeding for the appointment of a guardian, the  
35 respondent shall be given written notice which advises the

1 respondent of the powers that a guardian may exercise without  
2 court approval pursuant to section 633.635, subsection 2, and  
3 the powers that the guardian may exercise only with court  
4 approval pursuant to section 633.635, subsection 3.

5     2. In a proceeding for the appointment of a conservator,  
6 the respondent shall be given written notice which advises  
7 the respondent of the powers that a conservator may exercise  
8 without court approval pursuant to section 633.646 and the  
9 powers that the guardian may exercise only with court approval  
10 pursuant to section 633.647.

11     3. If the respondent is an adult, the notice shall  
12 clearly advise the respondent of the respondent's rights to  
13 representation by an attorney and the potential deprivation of  
14 the respondent's civil rights. The notice shall also state  
15 that the respondent may be represented by the respondent's own  
16 attorney rather than an attorney appointed by the court. If  
17 the respondent is an adult, notice shall be served upon the  
18 respondent with the notice of the filing of the petition as  
19 provided in section 633.558. If the respondent is a minor,  
20 notice shall be served upon the respondent with the notice of  
21 the filing of a petition as provided in section 633.559.

22     Sec. 28. Section 633.574, Code 2019, is amended to read as  
23 follows:

24     **633.574 Procedure in lieu of conservatorship for a minor.**

25     If a conservator has not been appointed for a minor, money  
26 due a minor or other property to which a minor is entitled,  
27 not exceeding in the aggregate twenty-five thousand dollars  
28 in value, shall be paid or delivered to a custodian under any  
29 uniform transfers to minors Act. The written receipt of the  
30 custodian constitutes an acquittance of the person making the  
31 payment of money or delivery of property.

32     Sec. 29. Section 633.591, Code 2019, is amended to read as  
33 follows:

34     **633.591 Voluntary petition for appointment of conservator —**  
35 **standby basis.**

1 Any person of full age and sound mind may execute a verified  
2 petition for the voluntary appointment of a conservator of the  
3 person's property upon the express condition that such petition  
4 shall be acted upon by the court only upon the occurrence of an  
5 event specified or the existence of a described condition of  
6 the mental or physical health of the petitioner, the occurrence  
7 of which event, or the existence of which condition, shall  
8 be established in the manner directed in the petition. The  
9 petition, if executed on or after January 1, 1991, shall advise  
10 the ~~proposed ward~~ respondent of a conservator's powers as  
11 provided in [section 633.576](#) [633.570](#).

12 Sec. 30. Section 633.634, Code 2019, is amended to read as  
13 follows:

14 **633.634 Combination of ~~voluntary and standby~~ petitions with**  
15 **~~involuntary petition for hearing.~~**

16 If prior to the time of hearing on a petition for the  
17 appointment of a guardian or a conservator, a petition is filed  
18 under the provisions of [section 633.556](#), [633.557](#), [633.572](#) or  
19 [633.591](#), the court shall combine the hearing on such petitions  
20 and determine who shall be appointed guardian or conservator,  
21 and such petition shall be triable to the court.

22 Sec. 31. Section 633.635, Code 2019, is amended to read as  
23 follows:

24 **633.635 Responsibilities of guardian.**

25 1. The order by the court appointing a guardian shall state  
26 the basis for the guardianship pursuant to section 633.552.

27 ~~1.~~ 2. Based upon the evidence produced at the hearing, the  
28 court may grant a guardian the following powers and duties with  
29 respect to a protected person which may be exercised without  
30 prior court approval:

31 ~~a. Providing for the care, comfort and maintenance of the~~  
32 ~~ward, including the appropriate training and education to~~  
33 ~~maximize the ward's potential~~ Making decisions regarding the  
34 care, maintenance, health, education, welfare, and safety of  
35 the protected person except as otherwise limited by the court.

1     b. Establishing the protected person's permanent residence  
2 except as limited by subsection 3.

3     ~~b.~~ c. Taking reasonable care of the ward's protected  
4 person's clothing, furniture, vehicle, and other personal  
5 effects, and companion animals, assistive animals, assistance  
6 animals, and service animals.

7     ~~c.~~ d. Assisting the ward protected person in developing  
8 maximum self-reliance and independence.

9     ~~d.~~ Ensuring the ward receives necessary emergency medical  
10 services.

11     ~~e. Ensuring the ward receives professional care, counseling,~~  
12 ~~treatment, or services as needed. If necessitated by the~~  
13 ~~physical or mental disability of the ward, the provision of~~  
14 ~~professional care, counseling, treatment, or services limited~~  
15 ~~to the provision of routine physical and dental examinations~~  
16 ~~and procedures under anesthesia is included, if the anesthesia~~  
17 ~~is provided within the scope of the health care practitioner's~~  
18 ~~scope of practice~~ Consenting to and arranging for medical,  
19 dental, and other health care treatment and services for the  
20 protected person except as otherwise limited by subsection 3.

21     f. Consenting to and arranging for other needed professional  
22 services for the protected person.

23     g. Consenting to and arranging for appropriate training,  
24 educational, and vocational services for the protected person.

25     h. Maintaining contact, including through regular visitation  
26 with the protected person if the protected person does not  
27 reside with the guardian.

28     ~~f.~~ i. Placing Making reasonable efforts to identify and  
29 facilitate supportive relationships and interactions of the  
30 protected person with family members and significant other  
31 persons. The guardian may place reasonable time, place,  
32 or manner restrictions on communication, visitation, or  
33 interaction between the adult ward protected person and another  
34 person except as otherwise limited by subsection 3.

35     ~~g.~~ j. Any other powers or duties the court may specify.

1     ~~2.~~ 3. A guardian may be granted the following powers which  
2 may only be exercised upon court approval:

3     ~~a.~~ Changing, at the guardian's request, ~~the ward's permanent~~  
4 ~~residence if the proposed new residence is more restrictive of~~  
5 ~~the ward's liberties than the current residence~~ the protected  
6 person's permanent residence to a nursing home, other secure  
7 facility, or secure portion of a facility that restricts the  
8 protected person's ability to leave or have visitors, unless  
9 advance notice of the change was included in the guardian's  
10 initial care plan that was approved by the court. In an  
11 emergency situation, the court shall review the request for  
12 approval on an expedited basis.

13     ~~b.~~ ~~Arranging the provision of major elective surgery or any~~  
14 ~~other nonemergency major medical procedure. For the purposes~~  
15 ~~of this paragraph, "major elective surgery" and "nonemergency~~  
16 ~~major medical procedure" do not include the provision to the~~  
17 ~~ward of professional care, counseling, treatment, or services~~  
18 ~~limited to the provision of routine physical and dental~~  
19 ~~examinations and procedures under anesthesia, if the use of~~  
20 ~~anesthesia is necessitated by the physical or mental disability~~  
21 ~~of the ward, and if the anesthesia is provided within the scope~~  
22 ~~of the health care practitioner's scope of practice.~~

23 Consenting to the following:

24     (1) The withholding or withdrawal of life-sustaining  
25 procedures from the protected person in accordance with chapter  
26 144A or 144D.

27     (2) The performance of an abortion on the protected person.

28     (3) The sterilization of the protected person.

29     ~~c.~~ ~~Consent to the withholding or withdrawal of~~  
30 ~~life-sustaining procedures in accordance with ~~chapter 144A.~~~~

31     ~~d.~~ c. Denying all communication, visitation, or interaction  
32 by ~~an adult ward~~ a protected person with a person with whom  
33 ~~the adult ward~~ protected person has expressed a desire to  
34 communicate, visit, or interact or with a person who seeks to  
35 communicate, visit, or interact with the ~~adult ward~~ protected

1 person. A court shall approve the denial of all communication,  
2 visitation, or interaction with another person only upon a  
3 showing of good cause by the guardian.

4 ~~3. For the purposes of this section:~~

5 ~~a. "Routine dental examinations and procedures" includes~~  
6 ~~preventive services, diagnostic services, restorative services,~~  
7 ~~periodontal services, endodontic services, oral surgery,~~  
8 ~~prosthetic services, and orthodontic procedures.~~

9 ~~b. "Routine physical examinations and procedures" includes~~  
10 ~~examinations and procedures performed for the purpose of~~  
11 ~~general treatment or diagnosis or for the purpose of treatment~~  
12 ~~or diagnosis related to a specific illness, symptom, complaint,~~  
13 ~~or injury.~~

14 4. The court may take into account all available information  
15 concerning the capabilities of the ward respondent or  
16 the protected person and any additional evaluation deemed  
17 necessary, including the availability of third-party assistance  
18 to meet the needs of the ward or proposed ward respondent or  
19 the protected person, and may direct that the guardian have  
20 only a specially limited responsibility for the ward protected  
21 person. In that event, the court shall state those areas of  
22 responsibility which shall be supervised by the guardian and  
23 all others shall be retained by the ward protected person. The  
24 court may make a finding that the ward protected person lacks  
25 the capacity to contract a valid marriage.

26 5. From time to time, upon a proper showing, the court may  
27 modify the respective responsibilities of the guardian and  
28 the ward protected person, after notice to the ward protected  
29 person and an opportunity to be heard. Any modification that  
30 would be more restrictive or burdensome for the ward protected  
31 person shall be based on clear and convincing evidence that the  
32 ward protected person continues to ~~fall within the categories~~  
33 ~~of~~ meet the basis for the appointment of a guardian pursuant  
34 to [section 633.552, subsection 2](#), paragraph "a" or "b", and  
35 that the facts justify a modification of the guardianship.

1 Section 633.551 applies to the modification proceedings. Any  
2 modification that would be less restrictive for the ~~ward~~  
3 protected person shall be based upon proof in accordance with  
4 the requirements of section 633.675.

5 Sec. 32. Section 633.641, Code 2019, is amended by striking  
6 the section and inserting in lieu thereof the following:

7 **633.641 Duties of conservator.**

8 1. A conservator is a fiduciary and has duties of prudence  
9 and loyalty to the protected person.

10 2. In investing and selecting specific property for  
11 distribution, a conservator shall consider any estate plan or  
12 other donative, nominative, or appointive instrument of the  
13 protected person, known to the conservator.

14 3. If a protected person has executed a valid power of  
15 attorney under chapter 633B, the conservator shall act in  
16 accordance with the applicable provisions of chapter 633B.

17 4. The conservator shall report to the department of human  
18 services the protected person's assets and income, if the  
19 protected person is receiving medical assistance under chapter  
20 249A. Such reports shall be made upon establishment of a  
21 conservatorship for an individual applying for or receiving  
22 medical assistance, upon application for benefits on behalf  
23 of the protected person, upon annual or semiannual review of  
24 continued medical assistance eligibility, when any significant  
25 change in the protected person's assets or income occurs, or  
26 as otherwise requested by the department of human services.  
27 Written reports shall be provided to the department of human  
28 services office for the county in which the protected person  
29 resides or the office in which the protected person's medical  
30 assistance is administered.

31 Sec. 33. NEW SECTION. **633.642 Responsibilities of**  
32 **conservator.**

33 Except as otherwise ordered by the court, a conservator  
34 must give notice to persons entitled to notice and receive  
35 specific prior authorization by the court before the

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1 conservator may take any other action on behalf of the  
2 protected person. These other powers requiring court approval  
3 include the authority of the conservator to:

4 1. Invest the protected person's assets consistent with  
5 section 633.123.

6 2. Make gifts on the protected person's behalf from  
7 conservatorship assets to persons or religious, educational,  
8 scientific, charitable, or other nonprofit organizations to  
9 whom or to which such gifts were regularly made prior to the  
10 conservator's appointment; or on a showing that such gifts  
11 would benefit the protected person from the perspective of  
12 gift, estate, inheritance, or other taxes. No gift shall be  
13 allowed which would foreseeably prevent adequate provision for  
14 the protected person's best interest.

15 3. Make payments consistent with the conservator's plan  
16 described above directly to the protected person or to others  
17 for the protected person's education and training needs.

18 4. Use the protected person's income or assets to provide  
19 for any person that the protected person is legally obligated  
20 to support.

21 5. Compromise, adjust, arbitrate, or settle any claim by or  
22 against the protected person or the conservator.

23 6. Make elections for a protected person who is the  
24 surviving spouse as provided in sections 633.236 and 633.240.

25 7. Exercise the right to disclaim on behalf of the protected  
26 person as provided in section 633E.5.

27 8. Sell, mortgage, exchange, pledge, or lease the protected  
28 person's real and personal property consistent with subchapter  
29 VII, part 6 of this chapter regarding sale of property from a  
30 decedent's estate.

31 Sec. 34. Section 633.648, Code 2019, is amended to read as  
32 follows:

33 **633.648 Appointment of attorney in compromise of personal**  
34 **injury settlements.**

35 Notwithstanding the provisions of ~~section 633.647~~ 633.642

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1 prior to authorizing a compromise of a claim for damages on  
2 account of personal injuries to the ward, the court may order  
3 an independent investigation by an attorney other than by the  
4 attorney for the conservator. The cost of such investigation,  
5 including a reasonable attorney fee, shall be taxed as part of  
6 the cost of the conservatorship.

7 Sec. 35. Section 633.669, Code 2019, is amended to read as  
8 follows:

9 **633.669 Reporting requirements — assistance by clerk.**

10 1. A guardian appointed by the court under this chapter  
11 shall file with the court the following written verified  
12 reports which shall not be waived by the court:

13 a. An initial report within sixty days of the guardian's  
14 appointment care plan filed within sixty days of appointment.  
15 The information in the initial care plan shall include but not  
16 be limited to the following information:

17 (1) The current residence of the protected person and the  
18 guardian's plan for the protected person's living arrangements.

19 (2) The guardian's plan for payment of the protected  
20 person's living expenses and other expenses.

21 (3) The protected person's health status and health care  
22 needs, and the guardian's plan for meeting the protected  
23 person's needs for medical, dental, and other health care  
24 needs.

25 (4) If applicable, the guardian's plan for other  
26 professional services needed by the protected person.

27 (5) If applicable, the guardian's plan for meeting the  
28 educational, training, and vocational needs of the protected  
29 person.

30 (6) If applicable, the guardian's plan for facilitating the  
31 participation of the protected person in social activities.

32 (7) The guardian's plan for facilitating contacts between  
33 the protected person and the protected person's family members  
34 and other significant persons.

35 (8) The guardian's plan for contact with, and activities on

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1 behalf of, the protected person.

2 b. An annual report, filed within ninety sixty days of  
3 the close of the reporting period, unless the court otherwise  
4 orders on good cause shown. The information in the annual  
5 report shall include but not be limited to the following  
6 information:

7 (1) The current living arrangements of the protected  
8 person.

9 (2) The sources of payment for the protected person's living  
10 expenses and other expenses.

11 (3) A description, if applicable, of the following:

12 (a) The protected person's physical and mental health  
13 status and the medical, dental, and other professional services  
14 provided to the protected person.

15 (b) If applicable, the protected person's employment status  
16 and the educational, training, and vocational services provided  
17 to the protected person.

18 (c) The contact of the protected person with family members  
19 and other significant persons.

20 (d) The nature and extent of the guardian's visits with, and  
21 activities on behalf of, the protected person.

22 (4) The guardian's recommendation as to the need for  
23 continuation of the guardianship.

24 (5) The ability of the guardian to continue as guardian.

25 (6) The need of the guardian for assistance in providing or  
26 arranging for the provision of the care and protection of the  
27 protected person.

28 c. A final report within thirty days of the termination  
29 of the guardianship under section 633.675 unless that time is  
30 extended by the court.

31 ~~2. Reports required by this section must include:~~

32 ~~a. The current mental and physical condition of the ward.~~

33 ~~b. The present living arrangement of the ward, including a~~  
34 ~~description of each residence where the ward has resided during~~  
35 ~~the reporting period.~~

1 ~~c. A summary of the medical, educational, vocational and~~  
2 ~~technical, and other professional services provided for the~~  
3 ~~ward.~~

4 ~~d. A description of the guardian's visits with and~~  
5 ~~activities on behalf of the ward.~~

6 ~~e. A recommendation as to the need for continued~~  
7 ~~guardianship.~~

8 ~~f. Other information requested by the court or useful in the~~  
9 ~~opinion of the guardian.~~

10 3. 2. The court shall develop a simplified uniform  
11 reporting form for use in filing the required reports.

12 4. 3. The clerk of the court shall notify the guardian  
13 in writing of the reporting requirements and shall provide  
14 information and assistance to the guardian in filing the  
15 reports.

16 5. 4. Reports of guardians shall be reviewed and approved  
17 by a district court judge or referee.

18 6. Reports required by ~~this section~~ shall, if requested, be  
19 served on the attorney appointed to represent the ward in the  
20 guardianship proceeding and all other parties appearing in the  
21 proceeding.

22 Sec. 36. Section 633.670, Code 2019, is amended by striking  
23 the section and inserting in lieu thereof the following:

24 **633.670 Reports by conservators.**

25 1. A conservator shall file an initial plan for protecting,  
26 managing, investing, expending, and distributing the assets  
27 of the conservatorship estate within ninety days after  
28 appointment. The plan must be based on the needs of the  
29 protected person and take into account the best interest of the  
30 protected person as well as the protected person's preference,  
31 values, and prior directions to the extent known to, or  
32 reasonably ascertainable by, the conservator.

33 a. The initial plan shall include all of the following:

34 (1) A budget containing projected expenses and resources,  
35 including an estimate of the total amount of fees the

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1 conservator anticipates charging per year and a statement or  
2 list of the amount the conservator proposes to charge for each  
3 service the conservator anticipates providing to the protected  
4 person.

5 (2) A statement as to how the conservator will involve  
6 the protected person in decisions about management of the  
7 conservatorship estate.

8 (3) If ordered by the court, any step the conservator plans  
9 to take to develop or restore the ability of the protected  
10 person to manage the conservatorship estate.

11 (4) An estimate of the duration of the conservatorship.

12 b. Within two days after filing the initial plan, the  
13 conservator shall give notice of the filing of the initial plan  
14 with a copy of the plan to the protected person, the protected  
15 person's attorney and court advisor, if any, and others as  
16 directed by the court. The notice must state that any person  
17 entitled to a copy of the plan must file any objections to the  
18 plan not later than fifteen days after it is filed.

19 c. At least twenty days after the plan has been filed, the  
20 court shall review and determine whether the plan should be  
21 approved or revised, after considering objections filed and  
22 whether the plan is consistent with the conservator's powers  
23 and duties.

24 d. After approval by the court, the conservator shall  
25 provide a copy of the approved plan and order approving the  
26 plan to the protected person, the protected person's attorney  
27 and court advisor, if any, and others as directed by the court.

28 e. The conservator shall file an amended plan when there has  
29 been a significant change in circumstances or the conservator  
30 seeks to deviate significantly from the plan. Before the  
31 amended plan is implemented, the provisions for court approval  
32 of the plan shall be followed as provided in paragraphs "b",  
33 "c", and "d".

34 2. A conservator shall file an inventory of the protected  
35 person's assets within ninety days after appointment which

1 includes an oath or affirmation that the inventory is believed  
2 to be complete and accurate as far as information permits.  
3 Copies of the inventory shall be provided to the protected  
4 person, the protected person's attorney and court advisor, if  
5 any, and others as directed by the court. When the conservator  
6 receives additional property of the protected person, or  
7 becomes aware of its existence, a description of the property  
8 shall be included in the conservator's next annual report.

9 3. A conservator shall file a written and verified report  
10 for the period since the end of the preceding report period.  
11 The court shall not waive these reports.

12 a. These reports shall include all of the following:

13 (1) Balance of funds on hand at the beginning and end of the  
14 period.

15 (2) Disbursements made.

16 (3) Changes in the conservator's plan.

17 (4) List of assets as of the end of the period.

18 (5) Bond amount and surety's name.

19 (6) Residence and physical location of the protected  
20 person.

21 (7) General physical and mental condition of the protected  
22 person.

23 (8) Other information reflecting the condition of the  
24 conservatorship estate.

25 b. These reports shall be filed:

26 (1) On an annual basis within sixty days of the end of the  
27 reporting period unless the court orders an extension for good  
28 cause shown in accordance with the rules of probate procedure.

29 (2) Within thirty days following removal of the  
30 conservator.

31 (3) Upon the conservator's filing of a resignation and  
32 before the resignation is accepted by the court.

33 (4) Within sixty days following the termination of the  
34 conservatorship.

35 (5) At other times as ordered by the court.

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1 c. Reports required by this section shall be served on the  
2 protected person's attorney and court advisor, if any, and the  
3 veterans administration if the protected person is receiving  
4 veterans benefits.

5 Sec. 37. Section 633.675, Code 2019, is amended to read as  
6 follows:

7 **633.675 Cause for termination.**

8 1. A guardianship ~~shall cease,~~ and a conservatorship  
9 shall terminate, upon the occurrence of any of the following  
10 circumstances:

11 a. If the ~~ward~~ protected person is a minor, when the ~~ward~~  
12 protected person reaches full age.

13 b. The death of the ~~ward~~ protected person.

14 ~~c. A determination by the court that the ward is no longer~~  
15 ~~a person whose decision-making capacity is so impaired as~~  
16 ~~to bring the ward within the categories of section 633.552,~~  
17 ~~subsection 2, paragraph "a", or section 633.566, subsection 2,~~  
18 ~~paragraph "a". In a proceeding to terminate a guardianship or~~  
19 ~~a conservatorship, the ward shall make a prima facie showing~~  
20 ~~that the ward has some decision-making capacity. Once the~~  
21 ~~ward has made that showing, the guardian or conservator has~~  
22 ~~the burden to prove by clear and convincing evidence that the~~  
23 ~~ward's decision-making capacity is so impaired, as provided~~  
24 ~~in section 633.552, subsection 2, paragraph "a", or section~~  
25 ~~633.566, subsection 2, paragraph "a", that the guardianship or~~  
26 ~~conservatorship should not be terminated.~~

27 ~~d.~~ c. Upon determination by the court that the  
28 conservatorship or guardianship is no longer necessary for any  
29 other reason.

30 2. Notwithstanding subsection 1, paragraphs "a" through  
31 ~~"d", if the court appointed a guardian for a minor child for~~  
32 ~~whom the court's jurisdiction over the child's guardianship~~  
33 ~~was established pursuant to transfer of the child's case in~~  
34 ~~accordance with section 232.101A or 232.104, the court shall~~  
35 ~~not enter an order terminating the guardianship before the~~

1 ~~child becomes age eighteen unless the court finds by clear~~  
2 ~~and convincing evidence that the best interests of the child~~  
3 ~~warrant a return of custody to the child's parent. The~~  
4 court shall terminate a guardianship if it finds by clear and  
5 convincing evidence that the basis for appointing a guardian  
6 pursuant to section 633.552 is not satisfied.

7 3. The court shall terminate a conservatorship if the court  
8 finds by clear and convincing evidence that the basis for  
9 appointing a conservator pursuant to section 633.553 or 633.554  
10 is not satisfied.

11 4. The standard of proof and the burden of proof to be  
12 applied in a termination proceeding shall be the same as set  
13 forth in section 633.551, subsection 2.

14 Sec. 38. Section 633.717, subsection 8, Code 2019, is  
15 amended to read as follows:

16 8. The denial by a court of this state of a petition to  
17 accept a guardianship or conservatorship transferred from  
18 another state does not affect the ability of the guardian or  
19 conservator to seek appointment as guardian or conservator in  
20 this state under [section 633.551](#), ~~633.552~~, or ~~633.566~~ [633.556](#),  
21 if the court has jurisdiction to make an appointment other than  
22 by reason of the provisional order of transfer.

23 Sec. 39. Section 633B.102, subsections 2 and 6, Code 2019,  
24 are amended to read as follows:

25 2. "*Conservator*" or "*conservatorship*" means a conservator  
26 appointed or conservatorship established pursuant to ~~sections~~  
27 ~~633.570 and 633.572~~ [section 633.553, 633.554, or 633.567](#) or a  
28 similar provision of the laws of another state.

29 6. "*Guardian*" or "*guardianship*" means a guardian appointed  
30 or a guardianship established pursuant to ~~sections 633.556~~  
31 ~~633.552 and 633.560~~ [633.568](#) or a similar provision of the laws  
32 of another state.

33 Sec. 40. Section 633B.108, subsection 1, Code 2019, is  
34 amended to read as follows:

35 1. Under a power of attorney, a principal may nominate

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1 a conservator of the principal's estate or guardian of  
2 the principal's person for consideration by the court if  
3 proceedings for the principal's estate or person are begun  
4 after the principal executes the power of attorney. Except  
5 for good cause shown or disqualification, the court shall make  
6 its appointment in accordance with the principal's most recent  
7 nomination. This section does not prohibit an individual  
8 from executing a petition for the voluntary appointment of a  
9 guardian or conservator on a standby basis pursuant to sections  
10 ~~633.560~~ 633.568 and 633.591.

11 Sec. 41. REPEAL. Sections 633.552, 633.554, 633.555,  
12 633.556, 633.557, 633.558, 633.559, 633.562, 633.566, 633.568,  
13 633.569, 633.570, 633.572, 633.573, 633.575, 633.576, 633.646,  
14 633.647, 633.649, 633.650, and 633.652, Code 2019, are  
15 repealed.

16 Sec. 42. CODE EDITOR'S DIRECTIVE.

17 The Code editor is directed to make the following transfers:

- 18 1. Section 633.560 to 633.568.
- 19 2. Section 633.571 to 633.566.
- 20 3. Section 633.574 to 633.555.>

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DAN DAWSON